

From: fred smith
To: Microsoft ATR
Date: 1/24/02 6:56pm
Subject: microsoft settlement

Gentlepersons:

As a computer professional I wish to make known to you my DISapproval of the Proposed Final Judgement (PFJ) in the Microsoft Anti-Trust case.

This is a case in which a huge company has been found guilty of illegal monopolistic practices. The penalties for such practice should be real penalties. It is my belief that the PFJ not only proposes no meaningful penalties, it allows Microsoft to continue to practice business in much the same way as in the past.

I am not a legal scholar, I cannot give you a scholarly argument, so therefore I wish to refer you to many excellent arguments made publicly, on the Web, by others more knowledgeable than I.

Also, please note that I have willingly added my name to the list of signers to the "open letter" that will be sent to you by Dan Kegel (<http://www.kegel.com/remedy>).

Mr. Kegel's web site has many excellent discussions of this Microsoft case and the PFJ. There are also a number of links to many other articles/open letters/arguments/discussions on the subject, many of them by well-known and respected people. I specifically refer you to (and urge you to read) the following:

- <http://www.linuxplanet.com/linuxplanet/opinions/4020/1/>
An interview with Judge Robert H. Bork.
- http://www.boston.com/dailyglobe2/015/business/Microsoft_case_key_to_tech_s_future+.shtml
An article by the Attorney General of Massachusetts
- <http://www.cptech.org/at/ms/rnj12kollarkotellynov501.html>
Ralph Nader's open letter
- <http://www.cptech.org/at/ms/rnj12kollarkotellynov501.html>
Analysis by the Computer and Communications Industry Association

Other important links are:

- <http://www.procompetition.org/market/settlement/BorkLetter.html>
A letter from Robert H. Bork
- <http://www.procompetition.org/market/settlement/BarksdaleLetter.html>
A letter from James Barksdale

While the opinions of the authors of these (and other) articles are not necessarily identical to my own opinions, they do point out many problems with the PFJ, and do so much more eloquently than I could.

But the thrust of my argument (and theirs) is this:

- 1) the PFJ does not provide any meaningful penalties for past violations of anti-trust law.
- 2) the PFJ provides too little relief from Microsoft's monopolistic behavior.
- 3) The PFJ gives Microsoft far too much power to decide to whom they will release API (and other) documentation and too many ways to weasel out of releasing such documentation.
- 4) The PFJ specifically does not include any allowance for software or operating systems which compete with Microsoft but which are not supported or owned by a commercial entity. The major competition to Microsoft in the operating system arena, currently, is exactly that, and there is no provision in the PFJ to prevent Microsoft from doing anything they want to squash that competition. This type of software is often referred to as "Open Source" or "Free Software".
- 5) the commission mandated by the PFJ to oversee Microsoft's compliance is essentially powerless.

Microsoft has shown themselves in the past to be willing to essentially ignore consent agreements, and to work through loopholes in consent agreements. Also, Microsoft has shown no remorse or obvious willingness to change their business practices. We need a judgement that has REAL penalties and the teeth necessary to enforce them. This PFJ has neither.

I urge you to please review the arguments above, especially the links given (as well as many others not shown here) to other excellent discussions and arguments on the case, and having done so to then rule that this Proposed Final Judgement is not a suitable remedy for the crimes of which the defendant has been convicted.

Sincerely,

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